

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PAUL PESCE, on behalf of himself
and all others similarly situated,

-against-

NELSON, WATSON & ASSOCIATES, LLC

Defendant.

CLASS ACTION
COMPLAINT

JURY TRIAL
DEMANDED

BRIEANT

08 CIV. 5179

Plaintiff, by and through his undersigned attorney alleges upon knowledge as to himself and his own acts, and as to all other matters upon information and belief, brings this complaint against the above-named defendant, its employees, agents, and successors, and in support thereof alleges the following:

PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf and on behalf of all others similarly situated for damages and declaratory and injunctive relief arising from the defendant's violation of §1692 *et. seq.* of Title 15 of the United States Code, the Fair Debt Collections Practices Act (hereinafter "FDCPA"), which prohibits debt collectors within the meaning of 15 U.S.C. § 1692a(6) from engaging in abusive, deceptive and unfair practices.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331. This is an action for violation of 15 U.S.C. § 1692.
3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2).

PARTIES

4. Plaintiff Paul Pesce (hereinafter "Pesce") is a resident of the State of New York, Orange County. On or about December 26, 2007 and January 8, 2008, plaintiff received and came into contact with debt collection notices from defendant. Exhibit A.

5. Defendant Nelson, Watson & Associates, LLC is a Massachusetts Limited Liability Company engaged in the business of collecting debt. The principal purpose of defendant is the collection of debt using the mails and telephone, and the defendant regularly attempts to collect debts alleged to be due another.

CLASS ACTION ALLEGATIONS

6. Plaintiff brings this action as a nationwide class action, pursuant to Rule 23 of the Federal Rules of Civil Procedure (hereinafter "FRCP"), on behalf of himself and all consumers who have received debt collection notices and/or letters from the defendant which are in violation of the FDCPA, and their successors in interest (the "Class"). Excluded from the Class is the defendant herein, and any person, firm, trust, corporation, or other entity related to or affiliated with the defendant, including, without limitation, persons who are officers, directors, employees, associates or partners of defendant.

7. This action is properly maintained as a class action. This Class satisfies all the requirements of Rule 23 for maintaining a class action.

8. The Class is so numerous that joinder of all members is impracticable. Upon information and belief, hundreds of persons have received debt collection notices from the defendant which violate various provisions of the FDCPA.

9. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. These common questions of law and fact include, without limitation:

- a. Whether the defendant violated various provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692e, 1692e(10), 1692e(12) and 1692f(1), by defendant assessing Interest on accounts, without basis.
- b. Whether plaintiff and the Class have been injured by the defendant's conduct;
- c. Whether plaintiff and the Class have sustained damages and are entitled to restitution as a result of defendant's wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and
- d. Whether plaintiff and the Class are entitled to declaratory and/or injunctive relief.

10. Plaintiff's claims are typical of the claims of the Class, and plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

11. Plaintiff will fairly and adequately protect the interests of the Class and has retained experienced counsel, competent in the prosecution of class action litigation.

12. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted. Plaintiff anticipates that no unusual difficulties are likely to be encountered in the management of this class action.

13. A class action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein. Absent a class action the Class members will continue to suffer losses of statutorily protected rights as well as monetary damages and if defendant's conduct will proceed without remedy it will continue to reap and retain the proceeds of its ill-gotten gains.

14. Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

STATEMENT OF FACTS

15. Starting on or about December 26, 2007, defendant mailed a collection letter addressed to Paul Pesce. Upon receipt of defendant's letter, plaintiff opened and read it. The letter demanded payment of a debt allegedly owed by plaintiff to Palisades Collection, LLC. A copy of said letter is annexed hereto as Exhibit A.

FIRST CAUSE OF ACTION

16. Each of the above allegations is incorporated herein.
17. The letter violated 15 U.S.C. § 1692f(1) by Nelson, Watson & Associates, LLC, attempting to collect \$460.01 in Interest in its December 26, 2007 collection letter.
18. Moreover, despite the timely dispute by the consumer of both the Interest charge and that Palisades Collection, LLC was the creditor, defendant increased the Interest charge to \$471.06. Exhibits B and C.
18. Moreover, upon information and belief, in violation of 15 U.S.C § 1692e, 15 U.S.C. § 1692e(10) and 1692e(12), the defendant used false representations and deceptive means to collect a debt, by Palisades Collection, LLC claiming that it is an innocent purchaser for value without the ability to evidence the purported purchase.
19. As a result of defendant's abusive, deceptive and unfair debt collection practices, plaintiff has been damaged.

WHEREFORE, plaintiff respectfully requests that the Court enter judgment as follows:

- a) Declaring that this action is properly maintainable as a class action and certifying plaintiff as Class representative;
- b) Issue a preliminary and permanent injunction restraining defendant, its employees, agents and successors from, *inter alia*, engaging in conduct and practices that are in violation of the FDCPA;
- c) Issue a declaratory Order requiring defendant to make corrective disclosures;
- d) Awarding plaintiff statutory damages;

- e) Awarding plaintiff costs of this action, including reasonable attorneys' fees and expenses; and
- f) Awarding plaintiff such other and further relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38 of the FRCP, plaintiff hereby demands a trial by jury.

Dated: June 5, 2008
Uniondale, New York



Abraham Kleinman (AK-6300)
Kleinman LLC
626 RexCorp Plaza
Uniondale, New York 11556-0626
Telephone (516) 522-2621
Facsimile (888) 522-1692


 PO Box 1299
 Haverhill MA 01831
 RETURN SERVICE REQUESTED

Nelson, Watson & Associates, LLC
 80 Merrimack Street Lower Level
 Haverhill, MA 01830
 Phone: 800-213-5124 • Fax: (978) 469-9046

December 26, 2007

TPSD6432 - A1110 - 002436

Paul Pesce
 58 Elise Dr
 Middletown NY 10941-3364

~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

Current Creditor:
 Palisades Collection, LLC
 Acct #: 0589601102843194
 Balance Due: \$3889.26

Nelson, Watson & Associates, LLC
 PO Box 1299
 Haverhill MA 01831-1799
~~XXXXXXXXXXXXXXXXXXXXXXXXXXXX~~

*** Detach Upper Portion and Return with Payment ***

Acct No.: 0589601102843194
 Current Creditor: Palisades Collection, LLC
 Original Creditor: SEAMANS

NWA2111TY7DB11364
 Principal: \$3429.25
 Interest: \$460.01
 Total Balance: \$3889.26

The above referenced account has been placed with this office for collection. Remittance of the payment in full is hereby requested.

For your security, please make all payments payable to Nelson, Watson & Associates LLC.

Unless you notify this office within 30 days after receiving this notice that you dispute the validity of this debt or any portion thereof, this office will assume this debt is valid. If you notify this office in writing within 30 days from receiving this notice that you dispute the validity of this debt or any portion thereof, this office will obtain verification of the debt or obtain a copy of a judgment and mail you a copy of such judgment or verification. If you request this office in writing within 30 days after receiving this notice this office will provide you with the name and address of the original creditor, if different from the current creditor.

Please call Monday through Thursday 8am to 9pm EST, Friday 8am to 5pm EST, or Saturday 8am to 12pm EST.

This communication is from a debt collector. This is an attempt to collect a debt. All information obtained will be used for that purpose.

Sincerely,

Consumer Services Department

IF YOU WISH TO PAY BY VISA OR MASTERCARD, (CIRCLE ONE) FILL IN THE INFORMATION BELOW AND RETURN THE ENTIRE LETTER TO US IN THE ENCLOSED ENVELOPE.



Account Number	\$	/	Payment Amount	Expire Date
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Card Holder Name	Signature of Card Holder
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Paul A. Pesce
58 Elise Road
Middletown, NY 10941

January 7, 2008

SENT VIA FACSIMILE TO 978-469-9046
Nelson, Watson & Associates, LLC
80 Merrimack Street Lower Level
Haverhill, MA 01830

Re: Account No. 0589601102843194

To Whom It May Concern;

I am writing regarding the attached letter you sent me.

Please be advised that I hereby dispute that Palisades Collection, LLC is the current creditor.

Please send me proof that Palisades purchased this debt.

I demand verification of the interest charges.

Sincerely,

Paul A. Pesce

PO Box 1299
Haverhill MA 01831
RETURN SERVICE REQUESTED

Nelson, Watson & Associates, LLC
80 Merrimack Street Lower Level
Haverhill, MA 01830
Phone: (800) 388-1190 • Fax: (978) 469-9046

January 8, 2008

TPSD6432 - A1240 - 000425
Paul Pesce
58 Elise Dr
Middletown NY 10941-3364
[REDACTED]

Current Creditor:
Palisades Collection, LLC
Acct #: 0589601102843194
Balance Due: \$3900.31

Nelson, Watson & Associates, LLC
PO Box 1299
Haverhill MA 01831-1799
[REDACTED]

*** Detach Upper Portion and Return with Payment ***

Current Creditor: Palisades Collection, LLC
Original Creditor: SEAMANS
Acct No.: 0589601102843194

Principal: \$3429.25
Interest: \$471.06
Total Balance: \$3900.31
NWAA2124TV7EED90E8

Dear Paul Pesce:

This letter serves to confirm that Nelson, Watson & Associates LLC has received your dispute on the above referenced account. Nelson, Watson & Associates, LLC will cease collection efforts on the above referenced account until verification of said debt is obtained. Should we receive documents concerning your account that show the above referenced debt is considered valid, we will mail them to you at the address shown above.

This communication is from a debt collector. This is an attempt to collect a debt. All information obtained will be used for that purpose.

Please call Monday through Thursday 8am to 9pm EST, Friday 8am to 5pm EST, or Saturday 9am to 1pm EST.

Sincerely,

Consumer Services Department

IF YOU WISH TO PAY BY VISA OR MASTERCARD, (CIRCLE ONE) FILL IN THE INFORMATION
BELOW AND RETURN THE ENTIRE LETTER TO US IN THE ENCLOSED ENVELOPE.



Account Number	\$	Payment Amount	/	Expire Date
Card Holder Name	Signature of Card Holder			